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*Counsel for Mitsubishi Digital Electronics America, Inc.*

IN THE UNITED STATES BANKRUPTCY COURT  
 FOR THE EASTERN DISTRICT OF VIRGINIA  
 RICHMOND DIVISION

-----X	
In re:	: Chapter 11
	: :
CIRCUIT CITY STORES, INC., et al.,	: Case No. 08-35653
	: :
Debtors.	: Jointly Administered
	: :
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**MITSUBISHI DIGITAL ELECTRONICS AMERICA, INC.’S SUPPLEMENTAL  
 RESPONSE TO DEBTORS’ FOURTH OMNIBUS OBJECTION AND RESPONSE TO  
 DEBTORS’ TWENTIETH AND TWENTY-THIRD OMNIBUS OBJECTIONS**

NOW COMES Mitsubishi Digital Electronics America, Inc. (“Mitsubishi”), by its undersigned counsel, and files this supplemental response as follows to Debtors’ Fourth Omnibus Objection to Certain Duplicative Claims (the “Fourth Omnibus Objection”) [Docket No. 3096] and this response to the Debtors’ Twentieth Omnibus Objection to Claims (the “Twentieth Omnibus Objection”) [Docket No. 3704] and to the Debtors’ Twenty-Third Omnibus

Objection to Claims (the “Twenty-Third Omnibus Objection”) [Docket No. 3711], and hereby shows this Court as follows:

**BACKGROUND**

1. On November 10, 2008 (the “Petition Date”), Circuit City Stores, Inc. and its affiliated debtors (the “Debtors”) filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code.

2. The Debtors continue to manage and operate their businesses as debtors in possession pursuant to Bankruptcy Code sections 1107 and 1108.

3. On November 12, 2008, the Court appointed Kurtzman Carson Consultants LLC (“KCC”) as claims, noticing, and balloting agent for the Debtors in these chapter 11 cases.

4. On November 12, 2008, this Court entered that certain Order Establishing Bar Date for Filing Requests for Payment of Administrative Expense Claims Under Bankruptcy Code Sections 105 and 503(b)(9) and Approving Form, Manner and Sufficiency of Notice of the Bar Date Pursuant to Bankruptcy Rule 9007 [Docket No. 107].

5. On November 18, 2008, Mitsubishi timely filed its Proof of 503(b)(9) Claim (the “Mitsubishi 503(b)(9) Claim”) with KCC. The Mitsubishi 503(b)(9) Claim asserted an administrative priority claim against Circuit City Stores, Inc. and its estate (collectively, “Circuit City”) in the amount of \$4,965,976.18. KCC docketed the Mitsubishi 503(b)(9) Claim as Claim No. 132.

6. On December 10, 2008, the Court entered that certain Order Pursuant to Bankruptcy Code Sections 105 and 502 and Bankruptcy Rules 2002, 3003(c)(3), and 9007 (I) Setting General Bar Date and Procedures for Filing Proofs of Claim; and (II) Approving Form and Manner of Notice Thereof [Docket No. 890].

7. On January 28, 2009, Mitsubishi timely filed a proof of claim against the Debtors (the “Original Mitsubishi Proof of Claim”) with KCC. The Mitsubishi Proof of Claim asserted a total claim against Circuit City of \$15,258,077.65, which was comprised of a secured claim in the amount of \$2,641,909.24, a pre-Petition Date priority claim in the amount of \$4,965,976.18, and a pre-Petition Date non-priority general unsecured claim in the amount of \$7,650,191.58. KCC docketed the Original Mitsubishi Proof of Claim as Claim No. 7194.

8. On April 17, 2009, Mitsubishi filed an amended proof of claim with KCC (the “Amended Mitsubishi Proof of Claim”), whereby Mitsubishi amended the Original Mitsubishi Proof of Claim to assert a total claim against Circuit City of \$15,258,077.65, which was comprised of a secured claim in the amount of \$ 3,110,267.24, a pre-Petition Date priority claim in the amount of \$4,965,976.18, and a pre-Petition Date non-priority general unsecured claim in the amount of \$7,181,834.23. KCC docketed the Amended Mitsubishi Proof of Claim as Claim No. 12300.

9. On April 17, 2009, the Debtors filed their Fourth Omnibus Objection in which, among other things, the Debtors objected to Mitsubishi’s inclusion of its \$4,965,976.18 administrative priority claim as part of the Original Mitsubishi Proof of Claim, arguing that it is duplicative of the Mitsubishi 503(b)(9) Claim.

10. Mitsubishi, on May 20, 2009, filed a response to the Fourth Omnibus Objection [Docket No. 3384]. A hearing on the Fourth Omnibus Objection and Mitsubishi’s response and supplemental response thereto currently is set for July 23, 2009.

11. On June 23, 2009, the Debtors filed their Twentieth Omnibus Objection in which, among other things, the Debtors objected to the inclusion of an invoice for \$76,260.00 as part of the Mitsubishi 503(b)(9) Claim and sought to have such amount reclassified as a general

12. A hearing on the Twentieth Omnibus Objection currently is set for July 23, 2009.

13. On June 23, 2009, the Debtors filed their Twenty-Third Omnibus Objection in which, among other things, the Debtors object to Mitsubishi's inclusion of its \$4,965,976.18 administrative priority claim as part of the Amended Mitsubishi Proof of Claim, arguing that it is duplicative of the Mitsubishi 503(b)(9) Claim.

14. A hearing on the Twenty-Third Omnibus Objection currently is set for July 23, 2009.

15. Mitsubishi has attached as Exhibit A a proposed Stipulation and Order that would resolve the Fourth Omnibus Objection, the Twentieth Omnibus Objection, and the Twenty-Third Omnibus Objection insofar as those objections relate to the Mitsubishi 503(b)(9) Claim, the Original Mitsubishi Proof of Claim, and the Amended Mitsubishi Proof of Claim. For the reasons set forth herein, Mitsubishi submits that entry of the proposed Stipulation and Order is appropriate and proper in this case.

#### **FOURTH AND TWENTY-THIRD OMNIBUS OBJECTIONS**

16. Mitsubishi does not dispute that it has only a single 503(b)(9) administrative expense priority claim against Circuit City in these bankruptcy cases.

17. However, the Fourth Omnibus Objection and Twenty-Third Omnibus Objection fail to recognize that the Amended Mitsubishi Proof of Claim is now Mitsubishi's pending and effective claim against Circuit City (having been expressly filed to amend the Original Mitsubishi Proof of Claim) and contains secured and non-priority general unsecured claims

18. The proposed Stipulation and Order would recognize Mitsubishi's single 503(b)(9) claim against Circuit City in the amount of \$4,965,976.18 (as evidenced by the Mitsubishi 503(b)(9) Claim), would recognize the secured and non-priority unsecured claims against Circuit City that are evidenced by and contained in the Amended Mitsubishi Proof of Claim, and would withdraw as duplicative all other claims contained in the Mitsubishi 503(b)(9) Claim, the Original Mitsubishi Proof of Claim, and the Amended Mitsubishi Proof of Claim.

**TWENTIETH OMNIBUS OBJECTION**

19. Pursuant to the Twentieth Omnibus Objection, the Debtors seek to reduce the Mitsubishi 503(b)(9) Claim by \$76,260.00 and reclassify such amount as a non-priority general unsecured claim.

20. The factual issue is whether the goods referenced on Invoice No. 92514240 (the "Goods") were received by the Debtors inside or outside the twenty (20) day statutory period preceding the commencement of these bankruptcy cases as required by 11 U.S.C. § 503(b)(9).

21. The factual issue is easily resolved by review of the related Bill of Lading No. 82001053 (the "Bill of Lading"), attached hereto as Exhibit B, and the related Proof of Delivery (the "Proof of Delivery"), attached hereto as Exhibit C.

22. The Proof of Delivery, which was (a) signed and dated by the Debtors' agent, Gerdania Gaither, and (b) stamped "Circuit City" and "08, Oct 23 10:14" by the Debtors or their agent, clearly shows that the Debtors' received the Goods on October 23, 2008, which is within the twenty (20) day statutory period.

23. Mitsubishi submits, therefore, that the Twentieth Omnibus Objection must be overruled and that the Mitsubishi 503(b)(9) Claim must not be reduced by the \$76,260.00 in question.

24. The attached proposed Stipulation and Order would provide for such a resolution of the Twentieth Omnibus Objection insofar as it relates to Mitsubishi's 503(b)(9) Claim against Circuit City.

**ATTACHED DECLARATION**

25. Attached hereto as Exhibit D is the Declaration of Brian Atteberry, Senior Manager, Credit, A/V Division of Mitsubishi, who has personal knowledge of the facts that support this Response.

WHEREFORE, Mitsubishi respectfully requests that any order sustaining the Fourth Omnibus Objection and the Twenty-Third Omnibus Objection properly account for the existence and effectiveness of the Amended Mitsubishi Proof of Claim (as contemplated and provided for in the attached proposed form of Stipulation and Order), that the Court overrule the Twentieth Omnibus Objection as it relates to the Mitsubishi 503(b)(9) Claim against Circuit City (also as contemplated and provided for in the attached proposed form of Stipulation and Order), and that the Court grant Mitsubishi such other and further relief as may be appropriate.

This 6th day of July, 2009.

Respectfully submitted,

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COUNSEL FOR MITSUBISHI

**Exhibit A**



**Exhibit B**

**Exhibit C**

**Exhibit D**

**Certificate of Service**

The undersigned hereby certifies that a true copy of the foregoing **Mitsubishi Digital Electronics America Inc.'s Supplemental Response to Debtor's Fourth Omnibus Objection and Response to Debtors' Twentieth and Twenty-Third Omnibus Objections** was served this 6<sup>th</sup> day of July, 2009, via email and by first class mail, postage prepaid, upon:

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